IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3486 OF 1992

Jyoti Subhash Dhembare, .. Petitioner

Vs

Nagesh Mawan Tanksale & ors. .. Respondents.

Shri R.A.Thorat, for the petitioner.

Mr V.N.Bolinjkar, for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 28.11.2005.

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the order passed by the appeal Court in the proceedings arising from Exhibit-6-application, seeking injunction against the defendant restraining him from interfering with the possession of the plaintiff over the suit property. The application-Exhibit6 was allowed by the trial Court by the judgment and order dated 14.2.1990. Against that order, Misc.Civil Appeal No.69 of 1990 was filed by the respondents-defendants. The Addl.District Judge, Satara, allowed the appeal by the judgment and order dated 30.4.1992. It is against that order, the present

writ petition was filed by the petitioner-plaintiff.

3. This Court, while admitting the writ petition on 16.9.1992, had granted the interim injunction in terms of prayer clause (c)® of the writ petition. Prayer clause (c) reads thus:

> "(c) That pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to restrain the respondent, his agents, servants and persons claiming through him by an order of an injunction of this Hon'ble Court from entering upon and/or interfering with the petitioner's peaceful possession of the agricultural land bearing Survey No.233/1 admeasuring 0.81 R situated at village Rahimatpur, Taluka Koregaon, District-Satara."

The interim order has been operating against the respondent since 16.9.1992. The learned counsel appearing for the respondent is not in a position to

state as to whether the suit is still pending. There was no stay to the further proceedings of the suit. There is no reason why the suit should remain pending before the trial Court and it must have been disposed of by now, and even if it is not disposed of and is still pending, in my opinion, the following order shall meet the ends of justice.

(a) The interim order granted in terms of prayer clause (c) to remain operative till disposal of Regular Civil Suit No.180 of 1988, if not disposed of already.

(b) The trial Court shall dispose of the suit, being Regular Civil Suit No.180 of 1988,if not disposed of already, as expeditiously as possible and preferably within a period of six months from the date of receipt of this order.

(c) ® The trial Court shall decidethe said suit, on merits in accordance with law and uninfluenced by the orders passed in the proceedings arising from Exhibit-6 application.

(d) Rule is, accordingly, disposed of.

(D.B.Bhosale,J.)